

Steven G. Biddle; AZ Bar No. 012636
sbiddle@littler.com
Adam-Paul Tuzzo (*Pro Hac Vice*)
atuzzo@littler.com
Yijee Jeong; AZ Bar No. 033287
yjeong@littler.com
LITTLER MENDELSON, P.C.
2425 East Camelback Road, Suite 900
Phoenix, AZ 85016
Telephone: 602.474.3600
Facsimile: 602.957.1801

Attorneys for Respondent

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Cornele A. Overstreet, Regional Director of
the Twenty-Eighth Region of the National
Labor Relations Board, for and on behalf of
the National Labor Relations Board,

Petitioner,

v.

Lucid USA, Inc.,

Respondent.

Case No. 2:24-cv-01356-DJH

**JOINT PREHEARING
STATEMENT**

Petitioner Cornele A. Overstreet, on behalf of the National Labor Relations Board ("Petitioner or NLRB"), and Respondent Lucid USA, Inc. ("Respondent" or "Lucid"), by and through their undersigned counsel, hereby submit this Joint Prehearing Statement in advance of the preliminary injunction hearing scheduled for August 9, 2024.

A. COUNSEL FOR THE PARTIES

Counsel for Petitioner:

Tucker Bingham
National Labor Relations Board, Region 28
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004
tucker.bingham@nlrb.gov
602-416-4746

Counsel for Respondent:

Steven G. Biddle
sbiddle@littler.com
602-474-3613
Adam Tuzzo
atuzzo@littler.com
414-978-4606
Yijee Jeong
yjeong@littler.com
602-474-3619
Littler Mendelson
2425 East Camelback Road, Suite 900
Phoenix, AZ 85016

B STATEMENT OF JURISDICTION

Section 10(j) of the National Labor Relations Act. The parties do not dispute that this Court has jurisdiction over this matter.

C. LIST OF WITNESSES

1. Petitioner's Witnesses

a. To be called

- **Amie Hansen** - c/o Tucker Bingham, Attorney for Petitioner

Expected to testify about her work at Lucid, her union activities, and her termination.

- **Chad Brewer** - c/o Tucker Bingham, Attorney for Petitioner

Expected to testify about his work at Lucid, his union activities, and his termination.

- **Tiffany Lopez** - c/o Steve Biddle, Attorney for Respondent

Expected to testify about her role as HRBP, her investigation of time records, Lucid's policies, knowledge of union activities, and terminations of Hansen and Brewer.

- **Miguel Paredes** - c/o Steve Biddle, Attorney for Respondent

Expected to testify about his role at Lucid, Lucid's policies, his knowledge of union activities, and his interactions with and terminations of Hansen and

Brewer.

- **Layton Ratliff** - c/o Steve Biddle, Attorney for Respondent

Expected to testify about his role at Lucid, Lucid's policies, his knowledge of union activities, and his interactions with and terminations of Hansen and Brewer.

- **Jake Steele** - c/o Steve Biddle, Attorney for Respondent

Expected to testify about his role at Lucid, Lucid's policies, his knowledge of union activities, and his interactions with and terminations of Hansen and Brewer.

b. May be called

c. Unlikely to be called

2. Respondent's Witnesses

a. To be called

- Same as Petitioner

b. May be called

- **Carla Villanueva**, Oakland, CA, UAW Representative, involved in union campaign at Lucid

- **Kelvin Ho**, San Diego, CA, UAW Representative, involved in union campaign at Lucid

c. Unlikely to be called

Each party understands that it is responsible for ensuring that the witnesses it wishes to call to testify are subpoenaed. Each party further understands that any witness a party wishes to call shall be listed on that party's list of witnesses above and that party cannot rely on that witness having been listed or subpoenaed by another party.

D. LIST OF EXHIBITS

1. The following exhibits are admissible in evidence and may be marked in evidence by the Clerk:

a. Petitioner's Exhibits:

1. Unfair Labor Practice Charge 28-CA-313086
2. Unfair Labor Practice Charge 28-CA-322749
3. Order Consolidating Cases, Consolidated Complaint and Notice of Hearing
4. Respondent's Answer to Complaint
5. Affidavit of Amie Hansen Dated 7.19.23
6. Affidavit of Chad Brewer Dated 7.25.23
7. Affidavit of Carla Villanueva dated 1.25.24 and attached exhibits
8. Affidavit of Kelvin Ho dated 1.23.24
9. Screenshot of Text Message to Brewer
10. Flyers with QR codes distributed at Respondent's facility
11. United Auto Workers Survey Webpage
12. Respondent's position statement in 28-CA-313086 and attached exhibits
13. Order Rescheduling Hearing to Oct. 9, 2024
14. 1.19.23 email chain: PWT union meeting
 - a. PWT union meeting
 - b. PWT union meeting
 - c. PWT union meeting
 - d. PWT union meeting
 - e. PWT union meeting
 - f. PWT union meeting
15. 1.19.23 email: Union Push at Powertrain
16. 1.19.23 email: Attendance record request
17. 1.24.23 email: more Union activity at PWT email
18. 1.24.23 chat log between Lopez and Atwood
19. 1.24.23 chat log between Lopez, Cucuz, Kantautas
20. 1.25.23 email: QR Code Found, 1/25
21. 1.26.23 email: QR Code Found 1/25

22. 1.26.23 email: RE: Badging history request (Amie Hansen)
23. 1.26.23 email: RE: Badging history request (Chad Brewer)
24. 1.31.23 email: 1:1 Introduction
25. 2.1.23 email: Re: Additional Union Information
26. 2.2.22 email: Badging History Request
27. 2.2.23 email: Unionization Efforts
28. 2.3.23 email: Re: Unionization Efforts
29. 2.6.23 email: Union Propaganda collected from Breakroom at Hanna
30. 2.6.23 chatlog between Lopez and Bradbury
31. 2.7.23 email: Union Literature
32. 2.7.23 email: ***URGENT*** Amie Hansen- misconduct- Theft of Time
33. 2.7.23 email: ***URGENT*** Misconduct- Theft of Time, Brewer, Chad
34. 2.7.23 email: FW: Terminations – Hansen, Amie 003216
35. 2.7.23 email: Amie Hansen- Discharge
36. 2.7.23 email: Chad Brewer- Discharge
37. 2.7.23 email: Hansen, Amie-Misconduct Document- Theft of Time
38. 2.7.23 observation of employee misconduct form: Amie Hansen
39. 2.7.23 observation of employee misconduct form: Chad Brewer
40. 2.7.23 email chain: Re: Hello
 - a. Re: Hello
 - b. Re: Hello
 - c. Re: Hello
41. 2.7.23 email: Terminations- Hansen, Amie 003216
42. 2.10.23 email: RE: Union literature
 - a. RE: Union literature

b. RE: Union literature

43. 2.10.23 email: Resized_R.jpg

44. 2.10.23 email: Re: Termination-Nahu Aron Garcia Torres Sr.

45. 3.22.23 email: Updates to Kronos Workforce Management

46. 6.9.23 email: 1:1 introduction

47. 6.9.23 email: Operation Optimize

b. Respondent's Exhibits (in addition to the Exhibits listed by Petitioner):

1. NLRB June 2, 2023 Request for Evidence (Charge 28-CA-313086)

2. NLRB August 30, 2023 Request for Evidence (Charge 28-CA-322749) and for Lucid's Position on 10(j) Relief

3. Lucid's September 8, 2023, Position Statement and attachments in Response to Charge and Request for Evidence and request for position on 10(j) Relief

4. NLRB's September 29, 2023 Letter requesting additional information concerning Charge 28-CA-322749

5. Lucid's October 18, 2023 Response to NLRB's September 29, 2023 Letter and attachments

6. NLRB's December 28, 2023 Letter re: withdrawal of portion of allegations of Charge 28-CA-322749 concerning alleged unlawful termination of Ronald Caudillo

7. Tiffany Lopez Declaration (June 23, 2023)

8. Jake Steele Declaration (June 20, 2023)

9. Layton Ratliff Declaration (June 20, 2023)

10. Miguel Paredes Declaration (June 20, 2023)

11. Carla Villanueva Deposition Transcript (August 2, 2024)

12. Kelvin Ho Deposition Transcript (August 2, 2024)

13. Different versions of QR code flyers

14. Hansen Badge History Report and Time Records for November 2022-January 2023
15. Brewer's Badge History Report and Time Records for November 2022-January 2023
16. Map of Powertrain Building
17. Spreadsheet – Other Terminations
18. Thomas White Action Form
19. Torres Term Concurrence
20. Zobeyda Sotelo Action Form
21. Pantoja Action Form

2. As to the following exhibits, the parties have reached the following stipulations:

- a. Petitioner's Exhibits:
- b. Respondent's Exhibits:

3. As to the following exhibits, the party against whom the exhibit is to be offered objects to the admission of the exhibit and offers the objection stated below:

- a. Petitioner's Exhibits:
- b. Respondent's Exhibits: As to Respondent's Exhibit 22, Petitioner objects for lack of foundation and inappropriate summary under Rule 1006.

Each party hereby acknowledges by signing this Joint Prehearing Statement that any objections not specifically raised herein are waived.

E. DEPOSITIONS TO BE OFFERED

Each party hereby acknowledges by signing this Joint Prehearing Statement that any deposition not listed as provided herein will not be allowed, absent good cause.

Petitioner's Depositions to be Offered:

1. Jake Steele Deposition Transcript (August 1, 2024)
2. Layton Ratliff Deposition Transcript (August 1, 2024)
3. Miguel Paredes Deposition Transcript (August 1, 2024)

4. Tiffany Lopez Deposition Transcript (July 30, 2024)

5. Carla Villanueva Deposition Transcript (August 2, 2024) (portions to be read into the record: Page 39, lines 23-25; Page 40, lines 1-2; Page 42, lines 1-6; Page 48, line 25; Page 49, lines 1-7; Page 50, lines 17-25; Page 51, lines 1-2; Page 56, lines 14-18)

6. Kelvin Ho Deposition Transcript (August 2, 2024) (portions to be read into the record: Page 28, lines 15-24)

Respondent's Depositions to be Offered:

1. Carla Villanueva Deposition Transcript (August 2, 2024) (portions (pages:lines) to be read into the record: 8:6-10:12; 11:12-25; 12:4-18; 13:10-15:4; 15:23-16:8; 16:15-17:1; 17:10-18:6 19:11-25; 22:10-15; 26:16-27:4; 27:13-24; 28:7-17; 28:25-29:8; 30:25-31:24; 33:14-34:4; 34:11-25; 36:5-38:9; 38:18-23; 39:18-40:19; 41:17-42:18; 43:1-44:17; 45:5-46:22; 47:2-48:4; 49:17-21; 50:17-54:9; 54:24-55:6; 56:4-9; 56:14-58:9; 58:20-59:7; 60:20-66:20; 69:7-10; 71:7-10; 73:7-16)

2. Kelvin Ho Deposition Transcript (August 2, 2024) (portions (pages:lines) to be read into the record: 7:15-8:10; 8:16-9:6; 9:9-10:10; 10:14-22; 11:2-9; 11:13-13:10; 13:23-14:4; 14:16-23; 15:10-17:6; 18:12-23:18; 24:10-22; 25:16-26:24; 27:25-29:18; 30:2-21; 32:16-20; 33:11-19)

3. Amie Hansen Deposition Transcript (July 30, 2024)

4. Chad Brewer Deposition Transcript (July 27, 2024)

Each party hereby acknowledges by signing this joint pre-hearing statement that any deposition not listed as provided herein will not be allowed, absent good cause.

F. ESTIMATED LENGTH OF HEARING

The Court has set aside six hours for this hearing.

G. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Each party is separately submitting its Proposed Findings of Fact and Conclusions of Law in conjunction with this Joint Prehearing Statement. The Proposed Findings of Fact and

Conclusions of Law are being submitted by:

1. **Electronically** filing a Notice of Filing the Proposed Findings of Fact and Conclusions of Law with the Clerk of the Court (the Proposed Findings of Fact and Conclusions of Law will be attached to the Notice);

2. **Courtesy hard copy** is being delivered or mailed to chambers (papers shall be three-hole punched); and

3. **Courtesy electronic copy in Microsoft Word format** is being sent to the chambers e-mail address (Humetewa_Chambers@azd.uscourts.gov). Additionally, Petitioner is submitting in this fashion a proposed preliminary injunction, including the proposed bond amount, if any.

RESPECTFULLY SUBMITTED this 5th day of August 2024.

/s/ Tucker Bingham (with permission)

Tucker Bingham
NATIONAL LABOR RELATIONS
BOARD, REGION 28
Attorneys for Petitioner

/s/ Steven G. Biddle

Steven G. Biddle
Adam-Paul Tuzzo (*Pro Hac Vice*)
Yijee Jeong
LITTLER MENDELSON, P.C.
Attorneys for Respondent

I hereby certify that I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants, and mailed a copy of same to the following if non-registrants, this 5th day of August 2024:

Tucker Bingham, AZ Bar No. 037427
National Labor Relations Board, Region 28
2600 N. Central Avenue, Suite 1400
Phoenix, Arizona 85004
Attorneys for Petitioner

/s/ Tisha A. Davis

4878-4219-1573.1 / 100571-1030